



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231  
www.uspto.gov  
DIW 04-01

Paper No. 4

SUZANNE SEAVELLO SHOPE  
JONES & ASKEW LLP  
2400 MONARCH TOWER  
3424 PEACHTREE ROAD NE  
ATLANTA, GA 30326

**COPY MAILED**

**MAY 02 2001**

**OFFICE OF PETITIONS  
A/C PATENTS**

In re Application of :  
Agoston et al. : DECISION GRANTING  
Application No. 09/641,327 : PETITION  
Filed: 18 August, 2000 :  
Attorney Docket No. 05213-0730 :

This is a decision on the petition, filed on 12 December, 2000, requesting that the above-identified application, without drawings, be accorded a filing date of 18 August, 2000.

The application was filed on 18 August, 2000, without drawings.<sup>1</sup> Accordingly, on 6 October, 2000, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary.

In response, on 12 December, 2000, the present petition was filed. The petition states that the drawings are not necessary for an understanding of the subject matter sought to be patented. Petitioners request that the application, without drawings, be accorded a filing date of 18 August, 2000.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).<sup>2</sup> A review of the record reveals that Claim 10 is a method claim. Therefore, the present

---

<sup>1</sup>35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

<sup>2</sup>MPEP 601.01(f).

application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

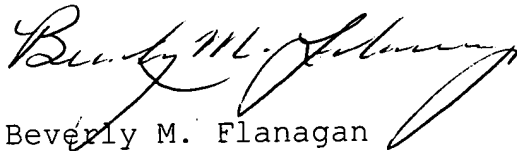
The one (1) sheet of drawing filed with the present application will not be processed or used for examination purposes, but will be retained in the application file with the present petition.

The petition is granted. The \$130.00 petition fee is unnecessary and will be credited to counsel's deposit account, No. 11-0855.

The "Notice of Incomplete Nonprovisional Application" mailed on 6 October, 2000, was sent in error and is hereby vacated.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 18 August, 2000, and for an indication on the bib-data sheet that no sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at 703.308.6918.



Beverly M. Flanagan  
Supervisory Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy